

REMARKS

In the Restriction Requirement, the Examiner required election of one of the following groups of claims:

Group I: claims 1-11, 13-14, 16-17, 19-20 and 22-23, drawn to an ionization chamber;
and

Group II: claims 12, 15, 18, 21 and 24, drawn to a method of using a mass analyzer for analyzing ions produced from an ionization chamber.

Applicants hereby elect to prosecute the claims of Group II, with traverse.

The Applicants respectfully request rejoinder of all claim groups since they all share the same characteristic: an ionization chamber containing an inert super alloy.

The MPEP is very clear with regard to restriction of claims having the same characteristic:

“where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction there between should never be required. This is because the claims are but different definitions of the same disclosed subject matter, varying in breadth or scope of definition.” M.P.E.P. § 806.03 (emphasis added).

Accordingly, in view of the explicit guidance set forth in M.P.E.P. § 806.03, this Restriction Requirement must be withdrawn.

Further, as stated in the MPEP §803, if search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. Since all of the claims recite an ionization chamber containing an inert super alloy it is Applicants' position that it would not be unduly burdensome to perform a search on claims 1-23 together.

In view of the foregoing, rejoinder of the claims is respectfully requested.

Should this Restriction Requirement be maintained, the Applicants expressly reserve the right set forth in 37 C.F.R. §1.114 and M.P.E.P. §818.03(c) to petition the Commissioner for review of the requirement, which petition may be deferred until after final action on or allowance of claims to the invention elected.

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Applicants further reserve the right under 35 USC §121 to file one or more divisional applications directed to the non-elected subject matter during the pendency of this application.

CONCLUSION

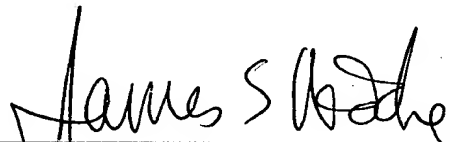
If the Examiner finds that a Telephone Conference would expedite prosecution of this application, he is invited to contact Timothy Joyce, whose contact information is of record.

In the event that the transmittal letter is separated from this document and the Patent Office determines that extensions or other relief is required and/or fees are due applicants, the Applicant petitions for any required relief, including extensions of time, and authorizes the Commissioner to charge any fees under 37 C.F.R. §§ 1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-1078..

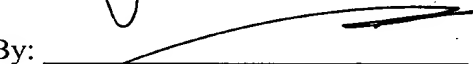
Respectfully submitted,
BOZICEVIC, FIELD & FRANCIS

LLP

Date: Jan 16, 2004

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THE EXPRESS MAIL NUMBER OF THE DAY IS: EV333998485US

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EXPRESS MAIL CERTIFICATION

Date of Deposit: 01/16/2004 I hereby certify that the below-listed papers or fees were inserted into a package addressed to: Commissioner for Patents, PO BOX 1450, Alexandria, Virginia 22313-1450 and was deposited by me with the United States Postal Service "Express Mail Post Office Addressee" service under 37 C.F.R. § 1.10 on the date indicated above.

Signature Mike Dakan

Date 1/16/04

Atty. Docket No.	Serial Number	Description	Atty.	Fee
AGIL-147	09/894,204	Transmittal, Restriction Election	JSK/ BEF	
AGIL-085	10/407,080	IDS, SB08A, Copies of (34) Cited References	BEF	
CLON-081	10/176,955	PTOL-85B <i>in duplicate</i>	BEF	\$1,630
VITA-002CIP2	10/663,538	Transmittal, Fee Transmittal <i>in duplicate</i> , Preliminary Amendment, IDS, Copies of 1449 & PTO-894's from Parent, Copy of Notice to File Missing Parts, Executed Declaration, Formal Drawing Transmittal, (87) Sheets of Formal Drawings	JSK	\$65
RIGL-004CON4	09/919,635	Request for RCE Transmittal, Fee Transmittal <i>in duplicate</i> , Petition for a 2 Month Extension of Time, Copy of Amendment as Filed 12/17/03	PJS	\$805
RIGL-012	10/142,662	Restriction Election/Preliminary Amendment	JSK	